



**Filed: 2/16/2005**

09400HB0316ham001

LRB094 06684 LJB 41233 a

1 AMENDMENT TO HOUSE BILL 316

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 316 by replacing the  
3 title with the following:

4 "AN ACT in relation to insurance."; and

5 by replacing everything after the enacting clause with the  
6 following:

7 "Section 5. The Illinois Insurance Code is amended by  
8 changing Section 500-77 as follows:

9 (215 ILCS 5/500-77)

10 Sec. 500-77. Policyholder information and exclusive  
11 ownership of expirations.

12 (a) As used in this Section, "expirations" means all  
13 information relative to an insurance policy including, but not  
14 limited to, the name and address of the insured, the location  
15 and description of the property insured, the value of the  
16 insurance policy, the inception date, the renewal date, and the  
17 expiration date of the insurance policy, the premiums, the  
18 limits and a description of the terms and coverage of the  
19 insurance policy, and any other personal and privileged  
20 information, as defined by Section 1003 of this Code, compiled  
21 by a business entity ~~registered firm~~ or furnished by the  
22 insured to the insurer or any agent, contractor, or  
23 representative of the insurer.

1 For purposes of this Section only, a business entity  
2 ~~registered firm~~ also includes a sole proprietorship that  
3 transacts the business of insurance as an insurance agency.

4 (b) All "expirations" as defined in subsection (a) of this  
5 Section shall be mutually and exclusively owned by the insured  
6 and the business entity ~~registered firm~~. The limitations on the  
7 use of expirations as provided in subsections (c) and (d) of  
8 this Section shall be for mutual benefit of the insured and the  
9 business entity ~~registered firm~~.

10 (c) Except as otherwise provided in this Section, for  
11 purposes of soliciting, selling, or negotiating the renewal or  
12 sale of insurance coverage, insurance products, or insurance  
13 services or for any other marketing purpose, a business entity  
14 ~~registered firm~~ shall own and have the exclusive use of  
15 expirations, records, and other written or electronically  
16 stored information directly related to an insurance  
17 application submitted by, or an insurance policy written  
18 through, the business entity ~~registered firm~~. No insurance  
19 company, managing general agent, surplus lines insurance  
20 broker, wholesale broker, group self-insurance fund,  
21 third-party administrator, or any other entity, other than a  
22 financial institution as defined in Section 1402 of this Code,  
23 shall use such expirations, records, or other written or  
24 electronically stored information to solicit, sell, or  
25 negotiate the renewal or sale of insurance coverage, insurance  
26 products, or insurance services to the insured or for any other  
27 marketing purposes, either directly or by providing such  
28 information to others, without, separate from the general  
29 agency contract, the written consent of the business entity  
30 ~~registered firm~~. However, such expirations, records, or other  
31 written or electronically stored information may be used for  
32 any purpose necessary for placing such business through the  
33 insurance producer including reviewing an application and  
34 issuing or renewing a policy and for loss control services.

1 (d) With respect to a business entity ~~registered firm~~, this  
2 Section shall not apply:

3 (1) when the insured requests either orally or in  
4 writing that another business entity ~~registered firm~~  
5 obtain quotes for insurance from another insurance company  
6 or when the insured requests in writing individually or  
7 through another business entity ~~registered firm~~, that the  
8 insurance company renew the policy;

9 (2) to policies in the Illinois Fair Plan, the Illinois  
10 Automobile Insurance Plan, or the Illinois Assigned Risk  
11 Plan for coverage under the Workers' Compensation Act and  
12 the Workers' Occupational Diseases Act;

13 (3) when the insurance producer is employed by or has  
14 agreed to act exclusively or primarily for one company or  
15 group of affiliated insurance companies or to a producer  
16 who submits to the company or group of affiliated companies  
17 that are organized to transact business in this State as a  
18 reciprocal company, as defined in Article IV of this Code,  
19 every request or application for insurance for the classes  
20 and lines underwritten by the company or group of  
21 affiliated companies;

22 (4) to policies providing life and accident and health  
23 insurance;

24 (5) when the business entity ~~registered firm~~ is in  
25 default for nonpayment of premiums under the contract with  
26 the insurer or is guilty of conversion of the insured's or  
27 insurer's premiums or its license is revoked by or  
28 surrendered to the Department;

29 (6) to any insurance company's obligations under  
30 Sections 143.17 and 143.17a of this Code; or

31 (7) to any insurer that, separate from a producer or  
32 business entity ~~registered firm~~, creates, develops,  
33 compiles, and assembles its own, identifiable expirations  
34 as defined in subsection (a).

1 For purposes of this Section, an insurance producer shall  
2 be deemed to have agreed to act primarily for one company or a  
3 group of affiliated insurance companies if the producer (i)  
4 receives 75% or more of his or her insurance related  
5 commissions from one company or a group of affiliated companies  
6 or (ii) places 75% or more of his or her policies with one  
7 company or a group of affiliated companies.

8 Nothing in this Section prohibits an insurance company,  
9 with respect to any items herein, from conveying to the insured  
10 or the business entity ~~registered firm~~ any additional benefits  
11 or ownership rights including, but not limited to, the  
12 ownership of expirations on any policy issued or the imposition  
13 of further restrictions on the insurance company's use of the  
14 insured's personal information.

15 (e) Nothing in this Section prevents a financial  
16 institution, as defined in Section 1402 of this Code, from  
17 obtaining from the insured, the insurer, or the business entity  
18 ~~registered firm~~ the expiration dates of an insurance policy  
19 placed on collateral or otherwise used as security in  
20 connection with a loan made or serviced by the financial  
21 institution when the financial institution requires the  
22 expiration dates for evidence of insurance.

23 (f) For purposes of this Section, "financial institution"  
24 does not include an insurance company, business entity  
25 ~~registered firm~~, managing general agent, surplus lines broker,  
26 wholesale broker, group self-funded insurance fund, or  
27 third-party administrator.

28 (g) The Director may adopt rules in accordance with Section  
29 401 of this Code for the enforcement of this Section.

30 (h) This Section applies to the expirations relative to all  
31 policies of insurance bound, applied for, sold, renewed, or  
32 otherwise taking effect on or after June 1, 2001 ~~the effective~~  
33 ~~date of this amendatory Act of the 92nd General Assembly.~~

34 (Source: P.A. 92-5, eff. 6-1-01; 92-651, eff. 7-11-02.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".